

### **REMARKS**

In response to the final Office Action of March 1, 2007, Applicant asks that all claims be allowed in view of the following remarks. Claims 1-33 are pending, with claims 1, 19, and 31 being independent.

#### **Rejections based on Monteiro**

Claims 1, 5-9, 11, 14-21, 23, and 26-33 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,119,163 ("Monteiro"). Applicant requests reconsideration and withdrawal of the rejections because Monteiro does not teach a method of "from the source [of a first track of electronic media], accessing a rule set ... configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed," as recited by claim 1 (emphasis added).

Claim 1 recites a method of enabling access to electronic media. A first track of electronic media is accessed from a source. A rule set is accessed from the source, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media is being accessed. The rule set includes an event definition describing an event condition to be monitored during a current media state. The rule set also includes an event transition that relates the event definition to a new media state to enable the new media state to be realized upon detecting the event condition described with respect to the event definition. The occurrence of an event condition described with respect to the event definition in the rule set is detected, and the event transition is performed in response to detecting occurrence of the event condition.

Monteiro cannot be used to anticipate claim 1 because no portion of Monteiro describes or suggests, "from the source, accessing a rule set, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed," as required by claim 1 (emphasis added). In attempting to establish that Monteiro describes this limitation, the Office Action cites to the following portion.

Since the resulting playback of audio information is sensitive to packet loss and network congestion, software running on the various computers which make up this system monitor the ongoing situation and adapt to it in the best possible way. This may involve using different Media Servers and/or lowering the data rate to the User. For example, similar to analog dynamic signal quality negotiation present in many analog radio receivers, the User software may request a lower bitrate until the situation is improved. Also, note that the audio information being delivered to the User is preferably interleaved so that a contiguous segment of the audiostream is distributed for transmission over several packets. As a result, the loss of one packet is spread out over multiple audio samples and causes minimal degradation in audio. Advantageously, a small degree of redundancy may be incorporated within the audio stream to further guard against packet loss.

See final Office Action, page 4.

As can be seen above in the cited portion, the referenced portion, and its disclosure of “using different Media Servers” and “lowering the data rate,” fails to describe or suggest, “from the source [of a first track of electronic media], accessing a rule set configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed,” as required by claim 1. Applicants submit that the remainder of the reference is similarly deficient.

Indeed, this deficiency is consistent with the remainder of Monteiro, which is directed towards a scalable architecture for delivery of real-time information over a communications network. Monteiro emphasizes, at length, a sequence of interserver communications enabling that the closest media server to provide optimum delivery without burdening a client with additional processing and communications. See, e.g., Figs. 6-17 (describing categories of interserver communications). Furthermore, Tables 1 and 2 describe various protocol sequences that support the end-end streaming process. None of the protocol sequences described represent “from the source [of a first track of electronic media], accessing a rule set... .”

In describing how these protocol sequences are used across an end-end delivery system, Monteiro begins with a discussion of a Network Control Center that provides the information for delivery. See Monteiro at col. 4, lines 25-26. The architecture also includes a primary server

that compresses the information into one of two bit rates. See Monteiro at col. 3, lines 11-14. See also Monteiro at col. 5, lines 1-3. The primary servers forward the compressed information to multiple media servers, which then may forward the information to the users. See Monteiro at col. 3, lines 16-22. To adapt to network congestion and packet loss, software on the users' computers may request to use a lower data rate to receive the information. See Monteiro at col. 7, lines 26-30.

Thus, Monteiro describes how these protocol sequences may be used in an architecture that allows an end user to receive data at a lower rate. However, Monteiro does not describe or suggest accessing a rule set, from a source, from which a first track of electronic media was accessed, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed, as recited by claim 1. Accordingly, the rejection of claim 1 and its dependent claims should be withdrawn.

Independent claims 19 and 31 recite limitations similar to those discussed above with respect to claim 1. As such, the rejection of these claims, as well as their dependent claims, should be withdrawn for the reasons provided above.

Furthermore, like Monteiro, Marks (U.S. Patent Application Publication No. 2001/0053944) and Rowlands (U.S. Patent Application Publication No. 2002/0083346) also fail to describe or suggest "from the source, accessing a rule set, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed," as recited by claim 1. Accordingly, the rejections based on these references also should be withdrawn.

### **Conclusion**

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the

amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fee is believed to be due. However, please apply any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

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